



## 93RD GENERAL ASSEMBLY

### State of Illinois

#### 2003 and 2004

Introduced 02/09/04, by Terry R. Parke

#### SYNOPSIS AS INTRODUCED:

215 ILCS 5/416  
820 ILCS 305/4d

Amends the Illinois Insurance Code. Provides that the Industrial Commission Operations Fund Surcharge shall not be imposed on and after July 1, 2004, and that this does not affect the powers and duties of the Director of Insurance with regard to any payments due before July 1, 2004 and any delinquencies, penalties, and overpayments with respect to those payments. Amends the Worker's Compensation Act. Provides that the Industrial Commission Operations Fund Fee shall not be imposed on and after July 1, 2004, and that this does not affect the powers and duties of the Chairman of the Commission with regard to any payments due before July 1, 2004 and any delinquencies, penalties, and overpayments with respect to those payments. Effective July 1, 2004.

LRB093 20628 SAS 46463 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning the Industrial Commission Operations  
2 Fund.

3 **Be it enacted by the People of the State of Illinois,**  
4 **represented in the General Assembly:**

5 Section 5. The Illinois Insurance Code is amended by  
6 changing Section 416 as follows:

7 (215 ILCS 5/416)

8 Sec. 416. Industrial Commission Operations Fund Surcharge.

9 (a) As of the effective date of this amendatory Act of the  
10 93rd General Assembly, every company licensed or authorized by  
11 the Illinois Department of Insurance and insuring employers'  
12 liabilities arising under the Workers' Compensation Act or the  
13 Workers' Occupational Diseases Act shall remit to the Director  
14 a surcharge based upon the annual direct written premium, as  
15 reported under Section 136 of this Act, of the company in the  
16 manner provided in this Section. Such proceeds shall be  
17 deposited into the Industrial Commission Operations Fund as  
18 established in the Workers' Compensation Act. If a company  
19 survives or was formed by a merger, consolidation,  
20 reorganization, or reincorporation, the direct written  
21 premiums of all companies party to the merger, consolidation,  
22 reorganization, or reincorporation shall, for purposes of  
23 determining the amount of the fee imposed by this Section, be  
24 regarded as those of the surviving or new company.

25 (b) (1) (Blank). ~~Except as provided in subsection (b) (2) of~~  
26 ~~this Section, beginning on July 1, 2004 and each year~~  
27 ~~thereafter, the Director shall charge an annual Industrial~~  
28 ~~Commission Operations Fund Surcharge from every company~~  
29 ~~subject to subsection (a) of this Section equal to 1.5% of its~~  
30 ~~direct written premium for insuring employers' liabilities~~  
31 ~~arising under the Workers' Compensation Act or Workers'~~  
32 ~~Occupational Diseases Act as reported in each company's annual~~

1 ~~statement filed for the previous year as required by Section~~  
2 ~~136. The Industrial Commission Operations Fund Surcharge shall~~  
3 ~~be collected by companies subject to subsection (a) of this~~  
4 ~~Section as a separately stated surcharge on insured employers~~  
5 ~~at the rate of 1.5% of direct written premium. All sums~~  
6 ~~collected by the Department of Insurance under the provisions~~  
7 ~~of this Section shall be paid promptly after the receipt of the~~  
8 ~~same, accompanied by a detailed statement thereof, into the~~  
9 ~~Industrial Commission Operations Fund in the State treasury.~~

10 (b) (2) Prior to July 1, 2004, the Director shall charge and  
11 collect the surcharge set forth in subparagraph (b) (1) of this  
12 Section on or before September 1, 2003, December 1, 2003, March  
13 1, 2004 and June 1, 2004. For purposes of this subsection  
14 (b) (2), the company shall remit the amounts to the Director  
15 based on estimated direct premium for each quarter beginning on  
16 July 1, 2003, together with a sworn statement attesting to the  
17 reasonableness of the estimate, and the estimated amount of  
18 direct premium written forming the bases of the remittance.

19 (c) In addition to the authority specifically granted under  
20 Article XXV of this Code, the Director shall have such  
21 authority to adopt rules or establish forms as may be  
22 reasonably necessary for purposes of enforcing this Section.  
23 The Director shall also have authority to defer, waive, or  
24 abate the surcharge or any penalties imposed by this Section if  
25 in the Director's opinion the company's solvency and ability to  
26 meet its insured obligations would be immediately threatened by  
27 payment of the surcharge due.

28 (d) When a company fails to pay the full amount of any  
29 annual Industrial Commission Operations Fund Surcharge of \$100  
30 or more due under this Section, there shall be added to the  
31 amount due as a penalty the greater of \$1,000 or an amount  
32 equal to 5% of the deficiency for each month or part of a month  
33 that the deficiency remains unpaid.

34 (e) The Department of Insurance may enforce the collection  
35 of any delinquent payment, penalty, or portion thereof by legal  
36 action or in any other manner by which the collection of debts

1 due the State of Illinois may be enforced under the laws of  
2 this State.

3 (f) Whenever it appears to the satisfaction of the Director  
4 that a company has paid pursuant to this Act an Industrial  
5 Commission Operations Fund Surcharge in an amount in excess of  
6 the amount legally collectable from the company, the Director  
7 shall issue a credit memorandum for an amount equal to the  
8 amount of such overpayment. A credit memorandum may be applied  
9 for the 2-year period from the date of issuance, against the  
10 payment of any amount due during that period under the  
11 surcharge imposed by this Section or, subject to reasonable  
12 rule of the Department of Insurance including requirement of  
13 notification, may be assigned to any other company subject to  
14 regulation under this Act. Any application of credit memoranda  
15 after the period provided for in this Section is void.

16 (g) Annually, the Governor may direct a transfer of up to  
17 2% of all moneys collected under this Section to the Insurance  
18 Financial Regulation Fund.

19 (h) Notwithstanding any other provision of this Section,  
20 the Industrial Commission Operations Fund Surcharge shall not  
21 be imposed on and after July 1, 2004. This subsection (h) does  
22 not affect the powers and duties of the Director under this  
23 Section with regard to payments due under subsection (b) (2) and  
24 any delinquencies, penalties, and overpayments with respect to  
25 payments due under subsection (b) (2).

26 (Source: P.A. 93-32, eff. 6-20-03.)

27 Section 10. The Workers' Compensation Act is amended by  
28 changing Section 4d as follows:

29 (820 ILCS 305/4d)

30 Sec. 4d. Industrial Commission Operations Fund Fee.

31 (a) As of the effective date of this amendatory Act of the  
32 93rd General Assembly, each employer that self-insures its  
33 liabilities arising under this Act or Workers' Occupational  
34 Diseases Act shall pay a fee measured by the annual actual

1 wages paid in this State of such an employer in the manner  
2 provided in this Section. Such proceeds shall be deposited in  
3 the Industrial Commission Operations Fund. If an employer  
4 survives or was formed by a merger, consolidation,  
5 reorganization, or reincorporation, the actual wages paid in  
6 this State of all employers party to the merger, consolidation,  
7 reorganization, or reincorporation shall, for purposes of  
8 determining the amount of the fee imposed by this Section, be  
9 regarded as those of the surviving or new employer.

10 (b) (Blank). ~~Beginning on the effective date of this~~  
11 ~~amendatory Act of the 93rd General Assembly and on July 1 of~~  
12 ~~each year thereafter, the Chairman shall charge and collect an~~  
13 ~~annual Industrial Commission Operations Fund Fee from every~~  
14 ~~employer subject to subsection (a) of this Section equal to~~  
15 ~~0.045% of its annual actual wages paid in this State as~~  
16 ~~reported in each employer's annual self insurance renewal~~  
17 ~~filed for the previous year as required by Section 4 of this~~  
18 ~~Act and Section 4 of the Workers' Occupational Diseases Act.~~  
19 ~~All sums collected by the Commission under the provisions of~~  
20 ~~this Section shall be paid promptly after the receipt of the~~  
21 ~~same, accompanied by a detailed statement thereof, into the~~  
22 ~~Industrial Commission Operations Fund.~~

23 (c) In addition to the authority specifically granted under  
24 Section 16, the Chairman shall have such authority to adopt  
25 rules or establish forms as may be reasonably necessary for  
26 purposes of enforcing this Section. The Commission shall have  
27 authority to defer, waive, or abate the fee or any penalties  
28 imposed by this Section if in the Commission's opinion the  
29 employer's solvency and ability to meet its obligations to pay  
30 workers' compensation benefits would be immediately threatened  
31 by payment of the fee due.

32 (d) When an employer fails to pay the full amount of any  
33 annual Industrial Commission Operations Fund Fee of \$100 or  
34 more due under this Section, there shall be added to the amount  
35 due as a penalty the greater of \$1,000 or an amount equal to 5%  
36 of the deficiency for each month or part of a month that the

1 deficiency remains unpaid.

2 (e) The Commission may enforce the collection of any  
3 delinquent payment, penalty or portion thereof by legal action  
4 or in any other manner by which the collection of debts due the  
5 State of Illinois may be enforced under the laws of this State.

6 (f) Whenever it appears to the satisfaction of the Chairman  
7 that an employer has paid pursuant to this Act an Industrial  
8 Commission Operations Fund Fee in an amount in excess of the  
9 amount legally collectable from the employer, the Chairman  
10 shall issue a credit memorandum for an amount equal to the  
11 amount of such overpayment. A credit memorandum may be applied  
12 for the 2-year period from the date of issuance against the  
13 payment of any amount due during that period under the fee  
14 imposed by this Section or, subject to reasonable rule of the  
15 Commission including requirement of notification, may be  
16 assigned to any other employer subject to regulation under this  
17 Act. Any application of credit memoranda after the period  
18 provided for in this Section is void.

19 (g) Notwithstanding any other provision of this Section,  
20 the Industrial Commission Operations Fund Fee shall not be  
21 imposed on and after July 1, 2004. This subsection (g) does not  
22 affect the powers and duties of the Chairman under this Section  
23 with regard to payments that were due under subsection (b)  
24 through June 30, 2004 and any delinquencies, penalties, and  
25 overpayments with respect to those payments.

26 (Source: P.A. 93-32, eff. 6-20-03.)

27 Section 99. Effective date. This Act takes effect July 1,  
28 2004.